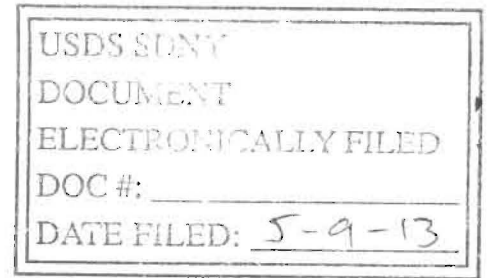


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



ONDER ALTAS, *et al.*,

Plaintiffs,

-v-

PHILIPPE NORTH AMERICA
RESTAURANTS LLC, *et al.*,

Defendants.

No. 12 Civ. 5032 (RJS)

No. 12 Civ. 6967 (RJS)

ORDER

RICHARD J. SULLIVAN, District Judge:

The Court is in receipt of a letter from Defendants, dated April 22, 2013, seeking a complete stay of the above-captioned actions, pursuant to 11 U.S.C. § 362, due to Defendant Philippe Hamptons, Inc.'s filing for bankruptcy under Chapter 7. The Court is also in receipt of a letter from Plaintiffs, dated April 25, 2013, opposing Defendants' request to stay these proceedings with respect to the non-debtor Defendants. Finally, the Court is in receipt of a reply from Defendants, dated May 8, 2013, in further support of their request for a stay.

Federal law provides for an automatic stay of "a judicial . . . action or proceeding against the debtor" once a debtor initiates bankruptcy proceedings. 11 U.S.C. § 362. However, "the stay is not automatically applicable to . . . non[-]bankrupt co-defendants." *Wynn v. AC Rochester Gen. Motors Corp.*, 155 F. App'x 528, 528 (2d Cir. 2005) (citing *Teachers Ins. & Annuity Ass'n of Am. V. Butler*, 803 F.2d 61, 65 (2d Cir. 1986)); *see also SMF Realty Co. v. Consolini*, 903 F. Supp. 656, 662 (S.D.N.Y. 1995) ("Section 362(a)(1) by its terms provides a stay only to the debtor. It does not, however, extend to separate legal entities such as . . . codefendants in pending litigation." (citation and internal quotation marks omitted)). Rather, the question of whether to broaden a stay to encompass non-debtor co-defendants is committed to the discretion of the bankruptcy court. *See* 11 U.S.C.

§ 105(a); *SMF Realty*, 903 F. Supp. at 662; *In re Keene Corp.*, 164 B.R. 844, 849 (Bankr. S.D.N.Y. 1994).

As there is no indication that the bankruptcy court here has issued a stay with respect to the non-debtor Defendants, Defendants' request to stay the above-captioned matters is HEREBY DENIED.

SO ORDERED.

Dated: May 8, 2013
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE